



महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

वर्ष २, अंक ४९]

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असाधारण क्रमांक ७८

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Highways (Amendment) Bill, 2016 (L. A. Bill No. XXXVII of 2016), introduced in the Maharashtra Legislative Assembly on the 1st August 2016, is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

N. J. JAMADAR,
Principal Secretary and R.L.A. to Government,
Law and Judiciary Department.

L. A. BILL No. XXXVII OF 2016.

A BILL

further to amend the Maharashtra Highways Act.

LV of
1955.

WHEREAS it is expedient further to amend the Maharashtra Highways Act, for the purposes hereinafter appearing; it is hereby enacted in the Sixty-seventh Year of the Republic of India as follows :—

1. (1) This Act may be called the Maharashtra Highways (Amendment) Act, 2016. Short title and commencement.

(2) It shall come into force on such date, as the State Government may, by notification in *Official Gazette*, appoint.

LV of
1955.

2. In section 2 of the Maharashtra Highways Act (hereinafter referred to as “the principal Act”),—

Amendment of section 2 of LV of 1955.

(a) after clause (d), the following clause shall be inserted, namely :—

“(d-1) “Competent Authority” means the Collector of the revenue district, and includes any officer not below the rank of Deputy Collector appointed by the Government, for the purpose of the Land Pooling Scheme;”;

(b) after clause (k), the following clause shall be inserted, namely :—

“(k-1) “Land Pooling Scheme” or “Scheme” means voluntary assembly of land under different ownership falling within the highway boundary and the site of New Town, for the purposes of making such land available for the construction of highway and development of New Town, in lieu of entitlement of developed non-agricultural plot or land of a size determined as per the Land Pooling Scheme, declared by the Government, from time to time;”;

(c) after clause (m), the following clause shall be inserted, namely :—

“(m-1) “New Town” means the area declared or to be declared as New Town by notification in the *Official Gazette*, under section 113 of the Maharashtra Regional and Town Planning Act, 1966;”.

Mah.
XXXVII
of 1966.

Amendment
of section 4 of
LV of 1955.

3. In section 4 of the principal Act, the following proviso shall be added, namely :—

“Provided that, in case of any highway or highways notified under section 3, to be developed by or transferred, assigned, handed over for construction, maintenance, development or improvement to the Maharashtra State Road Development Corporation Limited, in that case, the Maharashtra State Road Development Corporation Limited shall be the Highway Authority, for that highway or highways.”.

Amendment
of section 5 of
LV of 1955.

4. In section 5 of the principal Act, after the words “improvement of highways” the words “ and development of New Town” shall be added.

Amendment
of section 14
of LV of
1955.

5. In section 14 of the principal Act, after clause (g), the following clause shall be inserted, namely :—

“(g-1) demarcate the boundaries of New Town and demarcation of roads and plots in the final layout of the land covered under the Land Pooling Scheme by placing boundary stones and marks;”.

Insertion of
Chapter IIIA
in LV of
1955.

6. After section 19E of the principal Act, the following Chapter shall be inserted, namely :—

“ CHAPTER IIIA

Land Pooling Scheme.

Identification
of area for
Scheme.

19F. (1) The Highway Authority shall be the Authority for the purpose of the Land Pooling Scheme.

(2) The Highway Authority may identify the area for the Scheme either on its own or based on the applications received from the land owners or persons interested.

(3) The Highway Authority shall initiate the Scheme for the identified area.

(4) The Highway Authority shall submit the proposal of delineating the boundaries and the area comprised in the Scheme in the prescribed manner to the Competent Authority.

19G. (1) The Competent Authority shall, publish the preliminary notification in the *Official Gazette*, declaring its intention to make the Scheme in respect of the proposal received from the Highway Authority as provided in sub-section (4) of section 19F, in the prescribed manner and within the prescribed period, calling for objections or suggestions, as well as the consent for voluntary participation in the Scheme, from the land owners or persons interested, whose lands are included in the Scheme.

Declaration of intention and issue of final notification of Scheme.

(2) The land owners or persons interested shall submit their objections or suggestions, as well as consent, for the Scheme in the prescribed manner, in writing to the Competent Authority or appear before such authority, within prescribed period from the date of the publication of the preliminary notification in the *Official Gazette*.

(3) The Competent Authority shall, after all such objections or suggestions have been considered or heard, as the case may be, and after such further inquiry, if any, as it thinks necessary, forward to the Highway Authority, a copy of the record of its proceedings held by it together with the report setting forth its recommendations on the objections or suggestions.

(4) The Highway Authority shall consider the record and report specified in sub-section (3) and may publish the final notification in the *Official Gazette*, delineating the boundaries and area comprised in the Scheme, in the prescribed manner, with or without such modifications, if required, as it thinks fit.

(5) The decision of the Highway Authority to publish the final notification under sub-section (4) shall be final and conclusive.

(6) The consent given by the land owners or persons interested under sub-section (2) shall be irrevocable.

19H. (1) The Competent Authority shall, verify the title of the land and extent of consent as provided in sub-section (2) of section 19G, covered under the Scheme, with reference to revenue records, registered documents and other relevant records of ownership of land in the prescribed manner within prescribed period.

Verification of title of land and extent of consent.

(2) The Competent Authority shall pass the appropriate order under his seal and signature, confirming the acceptance or otherwise of the land for the Scheme.

19I. (1) Where there is a dispute over the claim of the ownership of any land included in the area under the Scheme, in respect of which a declaration of intention has been made, or any entry in the record of rights or mutation relevant to such disputed claim is inaccurate or inconclusive, in such cases, the Competent Authority may, hold an enquiry in the prescribed manner, at any time, before the final allotment of the developed non-agricultural plot or land.

Disputed ownership.

(2) The Competent Authority shall, after giving an opportunity of being heard to the land owner or person interested, pass an appropriate order, for the purposes of deciding who is the land owner or person interested for the purposes of the Scheme, under his seal and signature.

(3) The aggrieved person may, file an appeal before the competent revenue authority or regular suit in a Court of competent jurisdiction, as the case may be, under the applicable law.

19J. The land owners or persons interested, who have not voluntarily participated in the Scheme, the land of such land owners or persons interested, shall be acquired as per the law applicable for acquisition of land.

Acquisition of land of land owners not participating in Scheme.

Publication of
draft and
final layout.

19K. (1) The Highway Authority shall prepare the draft layout of land included in the boundaries of the New Town in the prescribed manner. The draft layout shall include all the land whether the land owners or persons interested has voluntarily participated or not in the Scheme.

(2) The Highway Authority shall, publish the draft layout of such land, in the prescribed manner, calling for objections or suggestions from the land owners or persons interested, who has voluntarily participated in the Scheme.

(3) The land owners or persons interested shall submit their objections or suggestions for the draft layout in the prescribed manner, in writing to the Highway Authority or appear before Authority, within the prescribed period from the date of the publication of the draft layout.

(4) The Highway Authority shall hear all such objections or suggestions, consider the record and may publish the final layout, in the prescribed manner, with such modifications, if any, as it thinks fit.

(5) The decision of the Highway Authority to publish the final layout under sub-section (4) shall be final and conclusive.

Vesting of
land with
Highway
Authority.

19L. (1) The land in final notified area under the Scheme as provided in sub-section (4) of section 19G and the final layout as provided in sub-section (4) of section 19K, shall vest absolutely with the Highway Authority, as non-agricultural land, free from all encumbrances, on Class-I occupancy basis, for the development and implementation of the Scheme :

Provided that, notwithstanding anything contained in any other law for the time being in force, no premium or *nazarana* or share of unearned income shall be levied by the Government for transferring of any land held on Class-II occupancy to the Highway Authority under the Scheme, and upon such transfer, such land shall vest in the Highway Authority, as non-agricultural land, free from all encumbrances, on Class-I occupancy basis.

(2) Any person wrongfully occupying any land vested with the Highway Authority, shall be summarily evicted by the Collector in the manner provided in the Maharashtra Land Revenue Code, 1966, on being required to do so by the Highway Authority.

Mah. XLI
of 1966.

Allotment of
developed
non-
agricultural
plot or land.

19M. (1) The Highway Authority shall, allot the developed non-agricultural plot or land to the land owners or persons interested, who have voluntarily participated in the Scheme, as per the Scheme declared by the Government.

(2) The procedure of allotment of developed non-agricultural plot or land shall be in the prescribed manner.

Land Pooling
Ownership
Certificate.

19N. (1) The Highway Authority shall, within prescribed period, issue the Land Pooling Ownership Certificate (hereinafter referred to as "the Certificate") to the land owners or persons interested, after allotment of the developed non-agricultural plot or land as provided in section 19M :

Provided that, notwithstanding anything contained in any other law for the time being in force, the ownership of the developed non-agricultural plot or land, shall be free from all encumbrances, on Class-I occupancy basis.

(2) The Certificate shall contain details of the original land of land owners or persons interested, details of the developed non-agricultural plot or land, including its original ownership details, along with a map of developed non-agricultural plot or land.

16 of 1908. (3) The Highway Authority shall register the Certificate under the provisions of the Registration Act, 1908. Such Certificate shall be the conclusive proof of the title of the property in respect of the allotted developed non-agricultural plot or land and shall be eligible for transfer of rights of the property in accordance with the provisions of the Transfer of Property Act, 1882.

19O. (1) No registration fee and stamp duty shall be charged from the Highway Authority for registration of the Certificate as provided in sub-section (3) of section 19N.

Exemption from payment of registration fee, stamp duty, etc.

(2) No non-agricultural assessment shall, be levied on the allotted developed non-agricultural plot or land under sub-section (1) of section 19M by the Highway Authority from the first allottee.

19P. (1) The Competent Authority shall, take the possession of the land in the Scheme from the land owners or persons interested, to whom the Certificate is issued as provided in sub-section (1) of section 19N and hand over the possession of such land to the Highway Authority in the prescribed manner.

Power to take possession of land.

(2) The Competent Authority shall, take the possession of the land acquired as provided in section 19J, after ensuring that full payment of compensation as well as rehabilitation and resettlement entitlements are paid to the concerned land owners or persons interested as per the law applicable for acquisition of land. Thereafter, the Competent Authority shall hand over the possession of such land to the Highway Authority in the prescribed manner.

19Q. The Planning Authority shall incorporate the land of the final notified area of the Scheme as provided in sub-section (4) of section 19G and the final layouts as provided in sub-section (4) of section 19K, in the development plan of the New Town under the Maharashtra Regional and Town Planning Act, 1966.

Incorporation of land in development plan.

Mah. XXXVII of 1966.

19R. The owner of the developed non-agricultural plot or land shall be responsible for the following, namely :—

Responsibilities of owner of developed non-agricultural plot or land.

(a) for all the required infrastructure within the developed non-agricultural plot or land and for obtaining development permissions as per the law applicable ;

(b) to obtain all other permissions and requisite 'No Objection Certificates' required for the development of the allotted plot or land; and

(c) to pay necessary fees and charges as per the applicable law and rules for the sanction of development permission before commencing any construction activity on the developed non-agricultural plot or land.

19S. (1) The Highway Authority shall implement the Scheme in the prescribed manner.

Implementation of Scheme.

(2) The Highway Authority shall carry out the physical demarcation of roads and plots or land of the final layout.

(3) The Highway Authority shall hand over the possession of the developed non-agricultural plot or land to the Certificate holder as per the Scheme in the prescribed manner, after formation of the roads as per the final layout.

(4) The remaining infrastructure like street light, solid waste management, sewerage treatment facility, water supply, parks and play grounds and other amenities shall be developed by the Highway Authority in a phased manner.

Completion of Scheme.

19T. (1) The Highway Authority shall publish notice of the completion of the Scheme in the prescribed manner within prescribed period.

(2) The Highway Authority shall also publish the details of the allotment of developed non-agricultural plot or land to the land owners or persons interested, in the prescribed manner.

Infrastructure maintenance.

19U. (1) The owners of the developed non-agricultural plot or land shall pay for the usage, consumption and maintenance charges levied by the Highway Authority or local authorities or agencies responsible for the common infrastructure and respective services including roads, street lights, solid waste management, sewerage treatment facility, water supply, parks and play grounds and other amenities.

(2) The Highway Authority may maintain the common infrastructure facilities either on its own or authorize the local authority or agency with the prior approval of the Government.

(3) The Highway Authority may collect such necessary user charges for infrastructure maintenance, as may be prescribed in the prescribed manner.

Delegation of powers.

19V. (1) The Highway Authority may, as it thinks fit, authorise and delegate its powers to any officer, for the purposes of this Act.

(2) The Highway Authority and the authorised officers shall exercise such powers and perform such duties, as may be prescribed.

(3) The Competent Authority may, as it thinks fit, authorise and delegate its powers to the officer not below the rank of Deputy Collector, for the purposes of this Act.

(4) The Competent Authority and authorized officers shall exercise such powers and perform such duties, as may be prescribed.

Restrictions on development of land in Scheme area.

19W. (1) After declaration of intention of the Scheme as provided in sub-section (1) of section 19G, no land owners or persons interested shall, without the prior permission in writing of the Highway Authority, construct, erect, build, excavate, etc. in the Scheme area.

(2) The provisions of sections 9 to 13 shall, *mutatis mutandis*, apply for the Scheme area.”

Insertion of section 63A in LV of 1955.

7. After section 63 of the principal Act, the following section shall be inserted, namely :—

Power of Highway Authority to dispose land.

“63A. The Highway Authority may dispose the land vested in it in the prescribed manner.”

Amendment of section 71 of LV of 1955.

8. In section 71 of the principal Act, in sub-section (2),—

(1) after clause (d-1), the following clauses shall be inserted, namely :—

“(d-2) the manner of submission of the proposal of Scheme to the Competent Authority under sub-section (4) of section 19F ;

(d-3) the manner and the period for calling objections or suggestions, as well as the consent, for voluntary participation in the Scheme under sub-section (1) of section 19G ;

(d-4) the manner to submit objections or suggestions, as well as the consent, for voluntary participation in the Scheme to the Competent Authority and the period to appear before the Competent Authority under sub-section (2) of section 19G ;

(d-5) the manner of publication of final notification, delineating the boundaries and area comprised in the Scheme under sub-section (4) of section 19G ;

(d-6) the manner and the period for verification of title of land by the Competent Authority and the extent of consent under sub-section (1) of section 19H ;

(d-7) the manner to hold enquiry by the Competent Authority under sub-section (1) of section 19I ;

(d-8) the manner to prepare the draft layout by the Highway Authority under sub-section (1) of section 19K ;

(d-9) the manner to publish the draft layout by the Highway Authority under sub-section (2) of section 19K ;

(d-10) the manner and period to submit objections or suggestions for the draft layout under sub-section (3) of section 19K ;

(d-11) the manner to publish the final layout by the Highway Authority under sub-section (4) of section 19K ;

(d-12) the manner to allot the developed non-agricultural plot or land under sub-section (2) of section 19M ;

(d-13) the period to issue Land Pooling Ownership Certificate under sub-section (1) of section 19N ;

(d-14) the manner to hand over the possession of the land to the Highway Authority under section 19P ;

(d-15) the manner to implement the Scheme by the Highway Authority under sub-section (1) of section 19S ;

(d-16) the manner to hand over the possession of developed non-agricultural plot or land to the Certificate holder under sub-section (3) of section 19S ;

(d-17) the manner and the period to publish notice of the completion of the Scheme by the Highway Authority under sub-section (1) of section 19T ;

(d-18) the manner to publish the details of the allotment of the developed non-agricultural plot or land by the Highway Authority under sub-section (2) of section 19T ;

(d-19) the necessary user charges to be collected by the Highway Authority and the manner to collect such charges under sub-section (3) of section 19U ;

(d-20) the powers and duties of the Highway Authority and the authorised officers under sub-section (2) of section 19V ;

(d-21) the powers and duties of the Competent Authority and the authorised officers under sub-section (4) of section 19V ;

(d-22) the manner of disposal of land by the Highway Authority under section 63A ;”.

Power to
remove
difficulties.

9. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, as occasion arises, by an order published in the *Official Gazette*, do anything not inconsistent with the provisions of this Act, which appears to it to be necessary or expedient for the purpose of removing the difficulty :

Provided that, no such order shall be made under this sub-section after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each House of the State Legislature.

STATEMENT OF OBJECTS AND REASONS.

The Industrial and commercial establishments are concentrated in metropolitan and urban areas of the State. With a view to decentralize the development and enhance industrial and commercial investment in the rest of the State, to promote the agricultural and agro-based industrial development, to boost rural economy and for rapid and equitable development of the State, it has become imperative to upgrade the road network across the State. To expedite the construction and development of highways across the State, it has become necessary to amend the Maharashtra Highways Act (LV of 1955).

2. The main impediment in the speedy implementation of the highway projects is the inordinate delay in the acquisition of land under the existing legal framework. Acquisition of land is one of the most important issue which agitates the minds of the persons whose land is being acquired as it impacts the livelihood of the people whose survival is dependent on the produce of the land. In view of this, the State Government has decided to make land owners or persons interested as partners and direct beneficiaries in the development process. In this background, the Government has decided to make provisions in the Maharashtra Highways Act to provide for the Land Pooling Scheme by voluntary participation of land owners or persons interested.

3. The Land Pooling Scheme envisages voluntary participation, return of developed non-agricultural plot or land, free from all encumbrances on Class-I occupancy basis. It also entails issue the Land Pooling Ownership Certificate, exemption from payment of registration fee, stamp duty and non-agricultural assessment to the developed non-agricultural plot or land, as also exemption from premium or *nazarana* or share of unearned income for transferring the lands of Class-II occupancies of various descriptions in the Land Pooling Scheme to the class-I occupancy basis. It envisages providing basic infrastructure amenities in the New Town designated for allotment of the developed non-agricultural plot or land as per entitlement. The benefits of the Scheme are not only restricted to allotment of the developed non-agricultural plot or land, but also the Government may declare other benefits, from time to time.

4. It is proposed to designate the Maharashtra State Road Development Corporation Limited as the Highway Authority for the highways notified under section 3, to be developed by or transferred, assigned, handed over for construction, maintenance, development or improvement to the Maharashtra State Road Development Corporation Limited. Since, the Land Pooling Scheme envisages development of New Town sites for compensatory land allotment, it is proposed to develop New Towns and disposal of land vested with the Highway Authority *i.e.* the land acquired under the said Scheme or land vested with the Highway Authority. It is also proposed to provide for detailed procedure for implementation of the Land Pooling Scheme and dispute redressal mechanism.

5. The Bill is intended to achieve the above objectives.

Mumbai,
Dated the 28th July, 2016.

CHANDRAKANT (DADA) PATIL,
Minister for Public Works.

MEMORANDUM REGARDING DELEGATED LEGISLATION.

The Bill involves the following proposals for delegation of legislative power, namely :—

Clause 1(2).—Under this clause, power is taken to the State Government, to bring into force the provisions of the Act by notification in the *Official Gazette*.

Clause 6.—Under this clause, which seeks to insert sections 19F to 19W by Chapter IIIA in the Maharashtra Highways Act,—

(a) in sub-section (4) of section 19F, power is taken to the State Government to prescribe the manner of submission of proposal of the Scheme by the Highway Authority to the Competent Authority ;

(b) in section 19G,—

(i) in sub-section (1), power is taken to the State Government to publish the preliminary notification in the *Official Gazette*, declaring its intention to make the Scheme and to prescribe the manner and the period for calling objections or suggestions, as well as consent for voluntary participation in the Scheme ;

(ii) in sub-section (2), power is taken to the State Government to prescribe the manner to submit objections or suggestions, as well as consent for voluntary participation in the Scheme by the land owner or persons interested, to the Competent Authority and the period to appear before the Competent Authority ;

(iii) in sub-section (4), power is taken to the State Government to publish the final notification in the *Official Gazette*, delineating the boundaries and area comprised in the Scheme and to prescribe the manner of publication of final notification by the Highway Authority ;

(c) in sub-section (1) of section 19H, power is taken to the State Government to prescribe the manner and the period for verification of title of land by the Competent Authority ;

(d) in sub-section (1) of section 19I, power is taken to the State Government to prescribe the manner to hold enquiry by the Competent Authority, before the final allotment of the developed non-agricultural plot or land ;

(e) in section 19K,—

(i) in sub-section (1), power is taken to the State Government to prescribe the manner to prepare the draft layout of the land included in the boundaries of the New Town by the Highway Authority ;

(ii) in sub-section (2), power is taken to the State Government to prescribe the manner to publish the draft layout by the Highway Authority ;

(iii) in sub-section (3), power is taken to the State Government to prescribe the manner and the period to submit objections or suggestions for the draft layout by the land owners or persons interested to the Highway Authority ;

(iv) in sub-section (4), power is taken to the State Government to prescribe the manner to publish the final layout by the Highway Authority ;

(f) in sub-section (2) of section 19M, power is taken to the State Government to prescribe the manner to allot the developed non-agricultural plot or land to the land owner or persons interested by the Highway Authority ;

(g) in sub-section (1) of section 19N, power is taken to the State Government to prescribe the period to issue the Land Pooling Ownership Certificate to the land owners or persons interested by the Highway Authority ;

(h) in section 19P, power is taken to the State Government to prescribe the manner to hand over the possession of the land to the Highway Authority by the Competent Authority ;

(i) in section 19S,—

(i) in sub-section (1), power is taken to the State Government to prescribe the manner to implement the Scheme by the Highway Authority ;

(ii) in sub-section (3), power is taken to the State Government to prescribe the manner to hand over the possession of developed non-agricultural plot or land to the Certificate holder by the Highway Authority ;

(j) in section 19T,—

(i) in sub-section (1), power is taken to the State Government to prescribe the manner and the period to publish notice of completion of the Scheme by the Highway Authority ;

(ii) in sub-section (2), power is taken to the State Government to prescribe the manner to publish the details of allotment of developed non-agricultural plot or land to the land owners or persons interested by the Highway Authority ;

(k) in sub-section (3) of section 19U, power is taken to the State Government to prescribe the necessary user charges from the owners of the developed non-agricultural plot or land by the Highway Authority and the manner to collect such charges ;

(l) in section 19V,—

(i) in sub-section (2), power is taken to the State Government to prescribe the powers and duties of the Highway Authority and its officers ;

(ii) in sub-section (4), power is taken to the State Government to prescribe the powers and duties of the Competent Authority and its officers.

Clause 7.—Under this clause, which seeks to insert section 63A in the Maharashtra Highways Act, the power is taken to the State Government to prescribe the manner of disposal of land by the Highway Authority.

Clause 8.—Under this clause, the power is taken to the State Government, to remove, by an order published in the *Official Gazette*, any difficulty which may arise in giving effect to the provisions of this Act.

2. The above-mentioned proposals for delegation of legislative power are of normal character.

FINANCIAL MEMORANDUM.

The Bill provides for the Land Pooling Scheme by voluntary participation of the land owners or persons interested, which proposes allotment of the developed non-agricultural plot or land to the land owners or persons interested, in lieu of their existing holding. The amendments proposed in the Bill do not envisage any creation of posts separately on Government establishment. There may be occasions where land will be required to be acquired under the existing land acquisition Act. It is not possible at this stage to give an estimate of actual expenditure for such acquisition that may have to be incurred in this behalf, from the Consolidated Fund of the State.